

1IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Darlena R. Price,)
Plaintiff,) C/A No. 6:12-450-TMC-JDA
v.)
Ingles Markets #042,)
Defendant.)

)

ORDER

Plaintiff, proceeding *pro se* and *in forma pauperis*, filed this action alleging claims of race and age discrimination and retaliation. The Defendant filed a Motion to Dismiss for lack of proper service. (Dkt. # 21). United States Magistrate Judge Jacquelyn D. Austin filed a Report and Recommendation recommending the Motion to Dismiss be denied and ordering defense counsel to advise the court whether counsel would accept service on behalf of Defendant or identify an agent authorized to accept service.¹

The parties were advised of their right to file objections to the Report. (Dkt. # 33-1).² However, neither party filed objections to the Report and Recommendation. Rather on August 1, 2012, the Defendant filed a response to the Report stating it had no objection to Plaintiff properly serving it and providing that its attorney would accept

¹ In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C., this matter was referred to a Magistrate Judge.

² The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

service. (Dkt. # 37).

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation (Dkt. # 33). It is therefore **ORDERED** that the Defendant's Motion to Dismiss (Dkt. # 21) is **DENIED**.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

August 24, 2012
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.